

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated April 11, 2008, (hereinafter Office Action) have been considered, and reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

In an effort to facilitate prosecution and without acquiescing to characterizations of the asserted art, Applicant's claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant's claimed subject matter, Applicant has amended each of the pending independent claims to indicate that the event occurs in at least one television program after the user specific parameters have been stored. Support for these changes may be found in the Specification, for example, at paragraphs [0017] and [0018]; therefore, the changes do not introduce new matter. Each of the pending claims is believed to be patentable over the asserted references for the reasons set forth below.

Neither of the asserted references (Waki or Orui) teaches or suggests at least storing user specific parameters regarding at least one television program and that include information indicating an event which will occur in the at least one television program after the user specific parameters are stored. For example, Waki's device phone number and program ID (asserted as corresponding to the claimed user specific parameters) are sent with a quiz answer; however, the quiz answer is provided in response to a broadcasted question (asserted as corresponding to the claimed event occurring in a television program). Thus, the asserted user specific parameters of Waki would be stored after the asserted event occurs and not prior, as now claimed. Also, Orui makes no mention of an event occurring in a television program and identified in stored parameters. As neither of the asserted references teaches at least storing or using user specific parameters as now claimed, any combination thereof must also fail to teach such limitations.

In addition, the asserted interpretation of the claimed event set forth at page two of the Advisory Action improperly fails to correspond to the claimed limitations. For example, the claimed message is sent from the network element to a mobile station (asserted as corresponding to Waki's operating device) when an event occurs in the broadcasted program. The asserted "message is transmitted back to the server/headend"

fails to correspond to the claimed message since the asserted message is not sent to Waki's operating device. Also, as explained previously and acknowledged at page two of the Advisory Action, the cited message of Waki is sent to the operating device in response to receipt of a quiz answer from a user and not when an event occurs in a television program. If no reply to the question being asked/prompted is provided by the user/operating device, then no message is sent to the operating device from the host device. Thus, the message sent to the operating device is not sent in response to the question being asked/prompted, but rather, in response to the answer received. Again, Waki makes no mention of sending a message to a mobile station in response to an event occurring in a television program or using stored user parameters to identify when to send such a message. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejections are improper.

In order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); and moreover, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). *See, e.g.*, MPEP § 2143.03. The limitations directed to at least the transmitting of at least one message when a specified event occurs in a television program appear to have been ignored, and are not taught by either of the cited references. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejections are improper. Applicant accordingly requests that the rejection be withdrawn.

With particular respect to the rejection of independent Claims 5 and 7, Applicant further traverses because the asserted references also fail to teach a network element with an interface to a television broadcasting system for receiving signals indicating the moments when predetermined events occur in a broadcasted program. The Office Action does not identify any such interface in the teachings of Waki or Orui, and neither of these references appear to teach receiving signals indicating the moments when predetermined events occur in a broadcasted program, as claimed. In addition, neither of the references has been shown

to teach a processing unit that generates at least one control message when the network element receives information via said interface, as claimed. Without an assertion or presentation of correspondence, the § 103(a) rejection is improper, and Applicant requests that the rejection be withdrawn.

Dependent Claims 3, 4, and 9-12 depend from independent Claims 1 and 7, respectively. Each of these dependent claims also stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the above-discussed combination of Waki and Orui. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claims 1 and 7. These dependent claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 3, 4, and 9-12 are also patentable over the asserted combination of Waki and Orui.

With respect to the rejections of dependent Claims 6 and 13 the additionally relied upon references have not been shown to teach the limitations absent in Waki and Orui. For example, none of the other relied-upon teachings have been asserted as teaching, or shown to teach, storing of user specific parameters and transmitting at least one message when a specified event occurs in a television program, as claimed. Without correspondence to each of the claim limitations, the § 103(a) rejections would be improper and the rejections should not be maintained.

Moreover, Applicant further traverses the § 103(a) rejections because a skilled artisan would not be motivated to look to the teachings of Waki as asserted. In determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. The mere interaction between a user and a

host station as taught by Waki fails to recognize or correspond to the limitations directed to an event occurring in a broadcast television program. Thus, modifying Waki to display quiz answers on an operating device disregards the requirement of analyzing Applicant's claimed subject matter *as a whole*. A skilled artisan's combination of the asserted teachings would result in user-dependent interaction with a host station rather than interaction based upon stored parameters as claimed. Without a presentation of the requisite suggestion or motivation to combine the cited references as asserted, the § 103(a) rejection is improper, and Applicant requests that it be withdrawn.

It should be noted that Applicant does not acquiesce to the Examiner's statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant's invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Further, Claims 14 and 15 have been canceled without prejudice, and Applicant reserves the opportunity to pursue the subject matter of these claims in the future. However, the cancellation of these claims renders any rejections of these claims moot, and Applicant accordingly requests that the rejections of these claims be withdrawn.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.072PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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